

Appl. No. 10/686,831
Amdt. date: July 7, 2004
Reply to Office Action of April 7, 2004

REMARKS

A. 35 U.S.C. § 102(b) Rejections

Claims 1, 2, 4, 6-9, 11-16 and 18-21 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,286,062 to Greenwood et al. The Examiner is thanked for the interview of July 6, 2003, and the acknowledgement that the invention claimed in the application is distinguishable over that disclosed in Greenwood et al.

Applicant respectfully traverses the rejection with respect to claim 1 in that, among other things, Greenwood et al. does not disclose, teach or suggest "an unused portion" as claimed in claim 1. The claimed "unused portion" 30 helps to "prevent a game player from peeking under the folded portion" prior to purchase of the game. (Pg. 3, ll. 26-30.) Thus, as seen in FIG. 1, the unused portion 30 separates the game portion 12 from the identification portion 14. This unused portion 30, which may contain print so long as the print does not include play combinations (pg. 3, ll. 30-32), should be sized so that a player peeking under the folded portions cannot see any indicia of the play combination or any indicia, such as a special background color on which the play combination indicia is printed, of a winning combination. Greenwood et al. does not teach or suggest such an "unused portion."

Indeed, Greenwood et al. only discloses a first panel 12 and a second panel 14, with "indicia 35 extending partially across first and second panels 12 and 14." (Greenwood, col. 4, ll. 11-18.) This indicia 35 is "hidden when the sections 22 and 24 are folded over each other and over area 20." (Greenwood, col. 4, ll. 18-20.) A "glue dot 34 prevents anyone from lifting up the edge 18 . . . to view the hidden indicia thereunder." (Greenwood, col. 4, ll. 39-41.) However, the glue dot 34 will not prevent anyone from lifting up the edge 18 on either side of the glue dot 34 in order to see at least a portion of the indicia 35. Even if this peeking does not reveal all or a portion of the indicia 35 of the play combination, it may reveal a special background color indicative of a winner, for example red, thus obviating the need to see the indicia 35. Such peeking is thwarted by having an unused portion 30 as claimed in Applicant's claim 1. Greenwood does not teach or otherwise suggest such an unused portion, rather it specifically states and shows that the indicia 35 extends partially across the panels 12 and 14, with no mention of an intervening unused portion. Moreover, no such "unused portion" as described in Applicant's application is shown in any of Greenwood et al.'s drawings.

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Claims 8 and 16 have been amended to more distinctly point out the differences between the claimed invention and the Greenwood et al. reference. With respect to claim 16, it is noted that Greenwood et al. does not have folds between the play combinations, but, rather, the play combinations are separated by perforations 60, 62, 64, 66, 68, 70, 72.

In light of the foregoing, Applicant respectfully traverses and requests reconsideration and withdrawal of the rejection of claims 1, 2, 4, 6-9, 11-16 and 18-21 under 35 U.S.C. § 102(b).

B. 35 U.S.C. § 103(a) Rejections

Claims 3, 5, 10, 17 and 22 have been rejected under 35 U.S.C. § 103(a) with claims 3 and 10 being deemed unpatentable over Greenwood et al.; with claim 5 being deemed unpatentable over Greenwood further in view of U.S. Patent No. 5,921,547 to Wilner; and with claims 17 and 22 being deemed unpatentable over Greenwood et al. further in view of U.S. Patent No. 4,270,774 to Barnes. In light of the foregoing arguments and amendments pertinent to the independent claims, Applicants respectfully submit that the section 103(a) rejections are moot and request reconsideration and withdrawal of same.

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CONCLUSION

Applicant respectfully submits that the section 102(b) rejections have been traversed by argument and/or amendment, that the section 103(a) rejections are thereby rendered moot and that new claims 23-25 are believed distinguishable over the prior art of record. Accordingly, applicant respectfully requests that the rejections of claims 1-22 be reconsidered and withdrawn and that claims 1-25 be passed to issue. Twenty-two claims, including four independent claims, were previously paid for. After entry of the amendments contained herein, twenty-five claims, including five independent claims, will remain. The Commissioner is hereby authorized to charge any additional fees, including the \$61.00 fee for three additional claims, one of which is independent, that may be necessary in connection with this response to Applicant's undersigned counsel's deposit account 10-0435 with reference to Applicant's undersigned counsel's file 2931-72241, as well as any further charges. Applicant does not believe any other fees are due to render this response timely. A duplicate copy of this authorization is enclosed for that purpose. Applicant asks that the Examiner contact Applicant's attorney James R. Sweeney (317-231-7771) should the Examiner have any further questions after review of the present amendment.

Respectfully,

BARNES & THORNBURG.

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